

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

vs.

RICKY D. PARKER,

Defendant.

)
)
)
)
)
)
)

CRIMINAL NO. 04-00115-CG

ORDER

This matter is before the court on defendant's second motion for Retroactive Application of Sentencing Guidelines to Crack Cocaine Offense pursuant to 18 USC § 3582 (Doc. 41) and the Government's Response (Doc. 42). In his motion, the defendant asks the court to reconsider its previous ruling denying the motion for retroactive application of the amendment to the guidelines, because he claims he was unaware of the previous motion filed by his attorney, and that he did not have the opportunity to present mitigating evidence, which he now presents.

The court finds that the defendant is being disingenuous when he claims that he was unaware that his attorney had previously filed a such a motion. He may have been unaware of the court's ruling on the motion, but the record shows that the court received a letter from the defendant inquiring as to the status of the motion which had been filed in his behalf. (Doc. 40). Even considering the defendant's "mitigating factors", the court finds that, having considered the 18 USC 3553(a) factors, the history and characteristics of this defendant and the need to protect the public from further crimes of the defendant, lead the court to reaffirm the rejection of his bid for a lesser sentence. The motion is **DENIED**.

DONE and ORDERED this 14th day of May, 2010 .

/s/ Callie V. S. Granade
UNITED STATES DISTRICT JUDGE